

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND, AND WATER**

FINAL FINDING AND DECISION

Chleca Lakes, Disappointment Creek, and
Donkey Terraces Staking Areas

AMENDMENT TO FINAL FINDING AND DECISION

Lake Louise East and Sunday Lakes Staking Areas

2007 Proposed Land Offering - AS 38.05.035(e)
Remote Recreational Cabin Sites Program - AS 38.05.600

OTHER RELATED ACTIONS

Mineral Closing Orders - AS 38.05.185
Area Plan Amendment and Reclassification - AS 38.04.065

This Final Finding and Decision is intended to complement and update the Preliminary Finding and Decision issued on October 12, 2006 for the proposed actions; see Attachment 2.

Proposed Actions: The Division of Mining, Land, and Water proposes to open remote settlement areas in the Southcentral Region for staking under the Remote Recreational Cabin Sites program, AS 38.05.600. The division proposes to offer approximately 250 authorizations to stake land in the Northern and Southcentral Regions of the state. This decision addresses the Chleca Lakes, Disappointment Creek, Donkey Terraces, Lake Louise East, and Sunday Lakes staking areas located in the Southcentral Region. These areas, except Lake Louise East and Sunday Lakes, have not been offered under any previous program.

The Division proposes to reopen the former Lake Louise East and Sunday Lakes staking areas for staking under this program. This Amendment to Final Finding and Decision is intended to complement and update the Final Finding and Decisions dated May 11, 2001 and September 4, 1981 respectively.

The Division proposes to close to mineral entry approximately 94,574 acres for staking areas not already closed to mineral entry within the Chleca Lakes, Disappointment Creek, Donkey Terraces, and a portion of the Sunday Lakes staking areas.

To provide more opportunities for staking within the Sunday Lakes staking area, the Division also proposes to amend the Susitna Area Plan to reclassify a portion of the Sunday Lakes staking area to settlement. The reclassification will restore the staking area to its original boundary as described in the *Susitna Area Plan*.

The areas approved by this decision may be offered in 2007 or included in a later offering. Brochures advertising the offering and application period will be published and distributed throughout the state. Successful applicants will be drawn by lottery in accordance with AS 38.05.057 if the number of applications for an area exceeds the number of staking authorizations offered.

Authority: The authority for the Remote Recreational Cabin Sites program and offering includes but is not limited to the following: Alaska Statutes (AS): AS 38.04.010, AS 38.04.045, AS 38.04.050, AS 38.04.055, AS 38.05.020, AS 38.05.035, AS 38.05.057, AS 38.05.127, AS 38.05.185, AS 38.05.300, AS 38.05.600, AS 38.05.830, AS 38.05.850, AS 38.05.945, AS 38.05.946; Alaska Administrative Code (AAC): 11 AAC 51, 11 AAC 53, 11 AAC 55, 11 AAC 67.005 through 11 AAC 67.240, 11 AAC 67.800 through 11 AAC 67.850, 11 AAC 96.

Public Notice and Discussion: Summary of comments received pursuant to AS 38.05.945; see Attachment 1.

Traditional Use Finding AS 38.05.830: There are no anticipated significant changes to traditional uses of the land and resources located within the staking areas as a result of the proposed action other than a potential increase in remote recreational activity associated with having privately owned sites. These areas are designated and classified for settlement (land disposals) through an area plan and one of the considerations in designating settlement areas was minimizing impacts on traditional uses, including fish and wildlife harvest. The impacts should be kept to a minimum by having a limited number of new stakings during the offering.

Modifications to the Preliminary Finding and Decision dated October 12, 2006: There are no significant changes to the Preliminary Finding and Decision dated October 12, 2006. The following is a summary of minor modifications:

Waters Determined Public or Navigable

Lakes larger than 50 acres in size or streams larger than 50 feet in width are navigable for title purposes. For purposes of this offering, it is administratively determined that all streams shown on the 1:63,360 USGS maps for the staking areas are determined to be public. If at the time of survey a parcel is staked along a stream not shown on a staking map, the waterbody may be determined to be public at that time in accordance with AS 38.05.127 and 11 AAC 51.035. Waterbodies determined to be public or navigable will have 50-foot public access easements reserved along the ordinary high water mark.

Generally, lakes less than ten acres in size are not determined navigable or public unless specifically identified below.

Chleca Lakes: The lakes located in the SW1/4NE1/4 and NE1/4SW1/4 Sec. 11, W1/2SW1/4 Sec. 14, two largest lakes within W1/2 of Sec. 15, S1/2 Sec. 21, E1/2SE1/4 Sec. 24, SE1/4 Sec. 25, NW1/4SE1/4 Sec. 34, and NW1/4SE1/4 Sec. 35 of K020S029E; two larger lakes in Sec. 5, two larger lakes in Sec. 7, and the lake within the N1/2 Sec. 18 of K020S30E; the lakes within NW1/4 Sec. 2, E1/2E1/2 Sec. 3, SW1/4 Sec. 4, SE1/4 Sec. 9, SW1/4 Sec. 10, and both Chleca Lakes of K021S029E, and any oxbow lake 10 acres or larger within the staking area are considered public. All other lakes are less than ten acres in size and not determined public.

Disappointment Creek: The lakes in the SE1/4 Sec. 20, SE1/4 Sec. 29, NW1/4 Sec. 32, NE1/4 and SW1/4 Sec. 31, and Cache Lake are determined to be public. All other lakes are less than ten acres in size and not determined public.

Donkey Terraces: The larger lakes in Sec. 3, 4, 13, 24 and 25 of S025N013W are determined to be public. The lake within the NW Sec. 30 and the two large lakes with Sec. 30 and 31 and Sec. 32 are determined to be public. All other lakes are less than ten acres in size and not determined public.

Lake Louise East: The following lakes within the described sections are determined to be public: NE1/4NE1/4 Sec. 1, NW1/4NW1/4 Sec. 1, center of Sec. 1, NE1/4 Sec. 3, common to Sec. 3 & 4, center of Sec. 4, NE1NE1/4 Sec. 5, NW1/4NE1/4 Sec. 5, center of Sec. 7, common to Sec. 7 & 18, center of Sec. 8, common to Sec. 8 & 17, NW1/4NW1/4 Sec. 9, common to Sec. 9 & 16, SW1/4SW1/4 Sec. 11, SE1/4NE1/4 Sec. 14, SW1/4 Sec. 14, SW1/4 Sec. 15, NE1/4NE1/4 Sec. 16, SW1/4NE1/4 Sec. 16, NE1/4SE1/4 Sec. 16, SW1/4 Sec. 16, W1/2E1/2 Sec. 17, SW1/4NW1/4 Sec. 19, SW1/4NE1/4 Sec. 19, common to Sec. 19, 20 & 29, NE1/4NW1/4 Sec. 20, NW1/4 Sec. 20, SE1/4NW1/4 Sec. 21, NE1/4 Sec. 21, SW1/4 Sec. 21, common to 21, 27 & 28, NE1/4SW1/4 Sec. 22, SW1/4SW1/4 Sec. 22, SE1/4SW1/4 Sec. 22, NE 1/4 Sec. 23, common to Sec. 26 & 27, SW1/4 Sec. 28, common to Sec. 28 & 29, common to 28 & 33, NW1/4SE1/4 Sec. 30, common to Sec. 30 & 31, SW1/4SW1/4 Sec. 31, NE1/4 Sec. 32, W1/2SW1/4 Sec. 33, common to Sec. 33 & 4, SW1/4 Sec. 34, and common to Sec. 34, 35, 2 & 3 within C007N006W; common to Sec. 1 & 6, E1/2NE1/4 Sec. 4, NE1/4SE1/4 Sec. 4, center of Sec. 4, E1/2SW1/4 Sec. 5, common to Sec. 5 & 8, NE1/4 Sec. 6, common to Sec. 6 & 1, NW1/4NW1/4 Sec. 7, center of Sec. 7, center of Sec. 12, S1/2 Sec. 13, S1/2SE1/4 Sec. 15, SW1/4 Sec. 16, common to 23 & 24, SE1/4 Sec. 24, NW1/4NE1/4 Sec. 28, and S1/2S1/2 Sec. 28 C006N006W.

Sunday Lakes: The lakes within NE1/4 Sec. 18, NW1/4 Sec. 22, SE1/4SE1/4 Sec. 26 common with Sec. 25, 35 & 36, NW1/4 Sec. 33 of S018N013W are determined to be public. All other lakes are less than ten acres in size and not determined public.

Final Finding and Decision: The finding presented has been reviewed and considered. Public Notice has been accomplished in accordance with AS 38.05.945. The proposed actions are consistent with constitutional and statutory intent for state land. The case files have been found to be complete and the requirements of all applicable statutes have been satisfied. No significant changes were made to the Preliminary Finding and Decision. It is the finding of the Director, Division of Mining, Land, and Water that it is in the best interests of the State of Alaska to proceed with this offering under AS 38.05 et al.



Holly Hill, Section Chief
Land Sales and Contract Administration Section

November 29, 2006

Date



Richard Mylius, Acting Director
Division of Mining, Land, and Water

November 29, 2006

Date

Appeal Provision: A person affected by this decision who provided timely written comment on this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d) and may be mailed or delivered to Michael Menge, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918; or sent by electronic mail to dnr_appeals@dnr.state.ak.us. If no appeal is filed by that date, this decision goes into effect as a final order and decision on the 31st day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 is enclosed.

Attachments: Attachment 1, Summary of Public Comment

Attachment 2, Preliminary Finding and Decision, dated October 12, 2006

Attachment 1

FINAL FINDING AND DECISION
AS 38.05.035(e)

SUMMARY OF PUBLIC COMMENTS

Notice provided under AS 38.05.945: Public notice for the Preliminary Finding and Decision for the proposed Remote Recreational Cabin Site staking areas along with the request for public comment was published and distributed in compliance with the above statute in the following manner:

- Published in the following seven newspapers: Anchorage Daily News, Fairbanks Daily News Miner, Nenana Messenger News 10/12/2006, Frontiersman 10/13/2006, Talkeetna Times 10/15/2006, Copper River Record 10/18/2006, and the Mukluk News 10/19/2006.
- Mailed, with a request to post for 30 days, to 268 postmasters statewide as per AS 38.05.945(c)(4);
- Mailed, with a request to post for 30 days, to 33 libraries including the following communities: Anchorage, Fairbanks, Talkeetna, McGrath, Wasilla, and Glennallen;
- Mailed to local community associations, cities, boroughs, and municipalities per AS 38.05.945(c)(1);
- Mailed to the following regional and village corporations per AS 38.05.945(c)(2)-(3): AHTNA Inc., Village of Aniak, Chuathbaluk Traditional Council, Doyon Ltd., Cook Inlet Region Inc.
- Mailed to adjacent land owners of record and other state and local agencies.
- Open houses for staking areas within in the Southcentral Region were held in Big Lake on October 23, 2006 and in Anchorage on October 24, 2006.

Comments Received: Thirteen comments were received during the public comment period. All comments were considered and are summarized and addressed as follows:

1. State Pipeline Coordinator's Office (All Areas): There are no apparent impacts on any AS 38.35 pipelines including the Trans-Alaska Pipeline System, Trans-Alaska Gas Pipeline System, Alaska Northwest Natural Gas Transportation System application, Kenai-Kachemak Gas Pipeline, and the proposed Alaska Natural Gas Development Authority pipeline from Glennallen to Palmer with proposed southcentral staking areas.

DNR Response: DNR concurs.

2. Matanuska-Susitna Borough (MSB Staking Areas): The three areas within the MSB, Donkey Terraces, Disappointment Creek, and Sunday Lakes, are not within the Borough's Coastal Management boundary, therefore, a consistency determination is not required. Surveys will be subject to the new subdivision regulations (Title 27) which become effective March 26, 2007.

DNR Response: DNR concurs and will coordinate with the MSB Platting Division to ensure the surveys of the staking areas within the MSB conform to the new subdivision regulations, Title 27.

3. Division of Geological & Geophysical Surveys (All Staking Areas):

Chleca Lakes: No known mineral occurrences are present within the proposed staking area. The Dyckman prospect, near the summit of Dyckman Mt., occurs about one half mile to the north.

Disappointment Creek: No known mineral occurrences occur in the proposed staking area. The closest mineral occurrence, placer gold claims staked in 1976, is found over one mile to the west.

Donkey Terraces: No known mineral occurrences occur in the proposed staking area. However, the adjacent township to the north has moderate-high to high potential for placer gold deposits, with historic production from a 36 square mile area centered on Fairview Mt.

Lake Louise East: No known mineral occurrences occur in the proposed staking area. The closest mineral occurrences are over 4 miles away, to the north (poorly characterized copper-cobalt-manganese lode occurrences) and to the west (placer gold occurrences).

Sunday Lakes: No known mineral occurrences occur in the proposed staking area. Placer gold mines were previously staked on Friday Creek, approximately a half mile due north and northeast of the northern edge of the proposed staking area, but there is no known production from this creek or Alder Gulch and upper Friday Creek.

DNR Response: DNR concurs; there are no known conflicts with current mining interest or activities with the proposed Southcentral Region staking areas.

4. Disappointment Creek: Five comments were received in opposition to the Disappointment Creek staking area. The comments addressed similar topics and have been summarized by issue as follows:

Issue: The Susitna Area Plan provides provisions for wetland and lake shore protection. DNR has not addressed these provisions for the number of staking authorizations proposed.

DNR Response: The Department has considered the Susitna Area Plans recommendation for the management of wetlands and lake shores. DNR has imposed 100-foot staking setbacks from Disappointment Creek and its tributaries as well as reserving over 50% of the lake shore of Cache lake to provide for habitat protection and future public use. Parcels will be subject to a 100-foot building setback from all public and navigable water bodies. Typically, stakers select parcels of higher quality that do not include wetlands. Stakers are notified that if they plan to do any development or construction within wetlands that they may need permits from local, state, and federal agencies. The Susitna Area Plan was developed with cooperation with the public, local communities, the Matanuska-Susitna Borough, Dept. of Fish and Game, and other agencies to determine the density for the settlement area of Disappointment Creek.

Issue: The staking area is primarily above tree line and there are not adequate resources available for house or fire logs. The high density of the proposed parcels will put to big of a demand on resources.

DNR Response: Permits are required for harvesting certain amounts of timber for house logs or for fire wood. The availability of timber resources is taken into consideration when approving permits to harvest timber. Private property owners may have to haul building materials for construction of cabins or other improvement. Stakers may also have to rely on alternative fuels such as propane or oil which will have to be hauled to their remote cabin sites. Drinking water may also need to be hauled to the cabin sites for personal use.

Issue: The high number of proposed stakings will negatively affect the habit areas for bears, bear dens, and swans. Land around the lakes and streams should be withdrawn to preserve the habitat area.

DNR Response: Of the nearly 6,600 acres within the staking area, the Susitna Area Plans allows for 1,040 acres private ownership. Parcel size ranges from 10 to 20 acres. This would allow up to 52 twenty-acre parcels within the staking area. Portions of the staking area have been retained in state ownership to provide for habitat protection and future public use. The areas immediately adjacent to the north, south, and west are comprised of tens of thousands of acres of state land reserved for wildlife habitat and public recreation. This staking area is classified for Settlement by the Susitna Area Plan to provide for new private land ownership to Alaskans.

Issue: The RST 1627 Talkeetna River Trail should be relocated to a more feasible route along ridge lines, if it is only a proposed route. Access staging areas are limited and will put additional stress for parking at the end of Comsat Road.

DNR Response: The two trails depicted on the staking map, RST 1620 Talkeetna River Trail and ADL 201263, have been reserved for future public access. The actual ground location of both trails is not known. Staking instructions prohibit staking over any reserved trail easement. Existing trails that have not been reserved will be subject to a 60-foot public access easement if a parcel is staked over the unreserved trail. Staked parcels will be subject to a 30-foot public access and utility easement along all upland lot lines and a 50-foot public access easement along any public or navigable water bodies. These easements will ensure public access through the staking area preventing staked parcels from blocking potential access routes. There are multiple staging areas, both public and private commercial that provide staging for ground or river access to the staking area. However, DNR anticipates that access to the staking area is primarily by air. No known, existing trails currently lead to the staking area.

Issue: The state should not sell land that is only "Tentatively Approved".

DNR Response: The State of Alaska now has full title to the surface and mineral estate within the Staking area under Patent Numbers 50-2005-0112 and 50-2005-0136.

Issue: Soil conditions and steep slopes provide for unsafe or unusable areas for staking.

DNR Response: Typically, stakers stake parcels on higher quality land that provides adequate opportunity for building sites and for locating potential sewer, waste water, or septic systems and water wells. The minimum lots size of 10 acres within the MSB has been implemented in part to ensure that each parcel has enough square footage to provide for suitable building sites, septic systems, and a well. Permits may be required prior to the construction of any improvement. Stakers select their own site and will determine the best location for their intended use and suitability.

Issue: ATV use within the area will have a negative impact on sensitive soil and terrain.

DNR Response: ATV use on State lands is managed under Generally Allowed uses on state lands. DNR encourages stakers to consolidate access to their cabin sites and to limit the use of ATV's to existing trails. Legal public access will be provided around parcels via a 30-foot public access easement along upland lot lines and a 50-foot public access easement along public and navigable water bodies.

Issue: Past land disposals have led to trash and dilapidated buildings being left behind on state land from abandoned lessee or permittees.

DNR Response: All parcels staked where a lease application is submitted to the Department will be surveyed and eventually offered for sale for private ownership. If a lease application or an issued lease is terminated, the parcel will still be surveyed and offered for sale in the future. While under lease, parcels are restricted to personal, private recreation use only. No commercial or residential use is permitted while under lease. Once parcels go to sale, these restrictions are lifted. Any development that occurs on the parcels will be confined to the surveyed parcels intended for private ownership, alleviating the impacts on general state land.

5. **Shawn M. Holdridge (Lake Louise East):** I am currently purchasing property within the reserved area as depicted on the staking map and would like to request that this area be reconsidered for staking.

DNR Response: To promote the settlement in the less densely settled areas within the staking area and to alleviate the impacts of the already densely settled areas, DNR will retain in state ownership the areas depicted as "Reserved Area". The Lake Louise East staking area may be opened again sometime in the future until the recommended number of acres allowed for settlement have been met. At this time, DNR will offer the area as proposed.

6. **Ed Ellis (Donkey Terraces):** The Donkey Terraces are highly mineralized and should not be closed to mineral entry.

DNR Response: As per comments received from the Alaska Division of Geological and Geophysical Surveys, no known mineral occurrences occur in the proposed Donkey Terraces staking area. Furthermore, no objections were received from the Mining Section within the Department of Natural Resources. The Susitna Area Plan recommends to close to mineral entry all areas offered for settlement. Legislative approval is not required for this action under AS 38.05.300 because the mineral closing orders are for a land disposal. The staking areas will be closed to mineral entry and location in accordance with AS 38.05.185 for a land disposal. The staking areas need to be closed to avoid potential conflicts with surface and subsurface use of the land. Mining activity would be incompatible with the past, current, and proposed surface uses for land disposals in these areas. To allow mineral location could create serious conflicts between surface and potential subsurface users.

7. **Florence R. Collins (Chleca Lakes):** The offering of the Chleca Lake staking area will infringe on the rights of the subsistence users of the adjacent area for hunting, fishing, trapping. Their lifestyles require legally open lands for traplines and access through the staking area. Private lands will restrict access to lakes and rivers that provide trapping opportunities. New land owners will likely want the amenities of school, mail service, and roads.

DNR Response: The proposed offering of the Chleca Lakes will have minimal impact on existing subsistence use of the area. The staking area is located approximately 30 miles away from Lake Minchumina and will not likely lead to additional resource

competition with the community there. The staking program will allow the opportunity for additional land ownership for the residences of near by communities as well as for all Alaskans. The Remote Recreational Cabin Sites staking program is intended to promote remote recreational opportunities and private land ownership. The state does not imply that these properties will be suitable for residential purposes that will require community services. The staking program allows for dispersed, low density staking patterns to minimize the impacts for local resources. Access to and through the staking area will not be impacted due to the low density of parcels in a large area. As previously stated, access to and through the area will be retained.

Two written comments were received in support of the proposed land offering under the Remote Recreational Cabin Sites staking program. The comments expressed their great interest in the program and consider it a benefit for all Alaskans.

The following comment was received after the public comment deadline of November 13, 2006. These comments will be considered however, any comments received after the deadline are not eligible to appeal.

Lake Minchumina Homeowners Association (Chleca Lakes): The Lake Minchumina Homeowners Association strongly opposes the offering of the Chleca Lakes remote staking area under the Remote Recreational Cabin Sites staking program. Offering the proposed area for private ownership may have a negative impact on local traplines, moose populations, and wildlife habitat, as well as problems with increased pollution and garbage and the increased need for fire suppression.

DNR Response: The Department has considered the impacts on local resources by offering the following area under the Remote Recreational Cabin Sites staking program. The program allows for low density settlement patterns to limit the negative impacts of private land ownership activities in one area as opposed to a high density subdivision development that concentrates private properties in one site location. The impacts to existing traplines within the staking area should be kept to a minimum. All existing, unreserved trails located within the staking area will be protected with a 60-foot public access easement if such a trail is staked over. Primary access to the staking area is by air. The management of all fish and game resources such as moose is managed by the Department of Fish and Game. Stakers are informed of the potential for fire danger and are provided firewise brochures. Stakers are encouraged to contact the Division of Forestry to provide the locations and descriptions of any improvements located on their parcel.